UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,004	09/28/2001	Arnold Jeffery Daks	AUS9-2001-0767-US1	4835

7590   10/30/2008

Leslie A. Van Leeuwen
International Business Machines Corporation
Intellectual Property Law Dept., Internal Zip 4054
11400 Burnet Road
Austin, TX 78758

EXAMINER
KISS, ERIC B

ART UNIT	PAPER NUMBER
2192	

MAIL DATE	DELIVERY MODE
10/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/966,004
Filing Date: September 28, 2001
Appellant(s): DAKS ET AL.

J. B. Kraft (Reg. No. 19,226)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 4, 2008, appealing from the Office action

mailed January 7, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

Appellants filed two responses after the final rejection: (i) an erroneous submission of a reply brief from another application on April 7, 2008 (see Transmittal Letter for Corrected Appeal Brief, August 4, 2008 (acknowledging the erroneous submission)); and (ii) an amendment to claims 32-41 on May 29, 2008. Appellant correctly states that the examiner has not previously indicated whether the amendment filed May 29, 2008, would be entered (Brief, August 4, 2008, p. 3).

The amendment after final rejection filed on May 29, 2008 is <u>entered</u> with this Examiner's Answer.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellants' statement of the grounds of rejection to be reviewed on appeal is

substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they

have been withdrawn by the examiner.

The rejection of claims 32-41 under 35 U.S.C. § 112, second paragraph, is <u>withdrawn</u>.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Tim Pyron, "Using Microsoft® Project 98 Special Edition," 1997, Que Corp., pp. 18-19,

125-126, 140, 154-156, 311-312, 473, 484-489, 565-566, 661-662[1].

| 5,949,999 | SONG et al. | 9-1999 |
| 6,223,343 | HOPWOOD et al. | 4-2001 |

---

[1] In the Final Rejection, this reference is cited as "Using Microsoft Project 2000" in the heading of the rejection of claims 1-6, 8-13, 22-27, 32-37, and 39-41. However, despite this typographical error, appellants have correctly understood this citation to refer to the "Using Microsoft Project 98 Special Edition" document.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

9.1.   Claims **1-6, 8-13, 22-27, 32-37, and 39-41** are rejected under 35 U.S.C. 103(a) as being

unpatentable over ["Using Microsoft® Project 98 Special Edition"] (hereinafter **"Project"**) in

view of Song et al., US5,949,999 (hereinafter **Song**).

In regard to claim **1**, **Project** discloses:

- *"A computer controlled display system for tracking the development of ...
  products…"* (E.g., see pages 565-566, "Using Microsoft project in
  workgroups" & Figure 18.1), wherein an example software development
  product having a plurality of developmental lines (components being
  developed) is illustrated.

- *"…means for setting in each of said plurality of developmental lines, a
  sequence of checkpoints…"* (E.g., see page 661, "The Gantt Chart" & page
  662, Figure 20.2 & page 140, "Entering Milestones" & page 19, fifth
  paragraph), wherein milestones, or interim goals, which mark the completion
  of a particular tasks included in a project. Milestones serve as check points by
  which a project can be gauged. The gantt chart is a means to track the project.

- *"…means for tracking each of said developmental lines to determine the
  reached checkpoints; and means for simultaneously displaying said plurality
  of developmental lines and indicating said reached checkpoints."* (E.g., see
  Figure 15.14 + 15.15 & pages 488-489), wherein progress bars and/or
  progress marks indicate tasks that have been started, the percent complete

and/or started or complete to track the reality of the project, wherein the

plurality of tasks (development lines) are displayed simultaneously.

But **Project** does not expressly disclose "*…complex software products… having a*

plurality of developmental lines.". However, it would have been obvious to one of ordinary skill

in the art, at the time the invention was made to use Microsoft Project for complex software

projects comprising a plurality of developmental lines. The motivation to do so was provided by

Project's teaching (E.g., see Figure 5.1 & pages 125-126), wherein organizing a project activity

or task list into phases is disclosed.

However, **Song** teaches ((E.g., see Figure 3 & Column 3, lines 57-58), wherein a user

defines procedures (checkpoints) to be performed during the project execution, wherein the

particular system component would correspond to a respective developmental line as illustrated

in Figure 3. As shown in Figure 2 and Figure 3, Song lists or displays a plurality of components

or developmental lines (Patient and File Functions, Measurement, Imaging, Filming, System

Functions, General Servers and Tools, etc…). **Project** and **Song** are analogous art because they

are both concerned with the same field of endeavor, namely, managing/tracking the development

of a software product. Therefore, it would have been obvious to one of ordinary skill in the art,

to use Microsoft Project to develop a software product with a plurality of developmental lines.

In regard to claim **2**, the rejections of base claim **1** are incorporated. Furthermore,

Project discloses:

-   "*…means for modifying said developmental lines and said checkpoints; and
    means for displaying said modifications …*" (E.g., see pages 484-489,
    "Viewing the tracking Gantt chart", particularly page 486, "Tracking Actual

Performance and Costs"), wherein revising the progress line duration and changing task relationships are disclosed.

In regard to claim **3**, the rejections of base claim **3** are incorporated. Furthermore, **Project** discloses:

- "*…displaying at each of said checkpoints, a set of developmental attributes for said checkpoint.*" (E.g., see pages 154-156, "Using the Task Details View" & Figure 5.32), wherein each milestone which is a task, can display a list of details associated with the task including subtasks, predecessor tasks and successor tasks as illustrated in the sequence of development by the task timeline.

In regard to claim **4**, the rejections of base claim **3** are incorporated. Furthermore, **Project** discloses:

- "*…means for modifying said developmental attributes for each of said checkpoints; and means for displaying said modifications at each of said checkpoints.*" (E.g., see page 156, "Inserting, Clearing, and Deleting Tasks"), wherein a subtask, predecessor or successor task may be entered or deleted.

In regard to claim **5**, the rejections of base claim **3** are incorporated. Furthermore, **Project** discloses:

- "*…said developmental attributes include actions performed in said software product development.*" (E.g., see pages 154-156, "Using the Task Details View" & Figure 5.32), wherein subtasks, predecessor tasks and successor tasks actions performed in said product development.

In regard to claim **6**, the rejections of base claim **2** are incorporated. Furthermore,

Project discloses modifying or switching actions among tasks (e.g., see page 156, "Editing the

Task List") wherein, editing or rearranging the task list is disclosed. Furthermore, **Project**

teaches resolving resource allocation (e.g., see page 473, "Tracking work on the project")

wherein the resources may be people (see pages 311-312, "Assigning resources to Tasks").

Thus, it would have been obvious to one of ordinary skill in the art, at the time the invention was

made to reallocate resources (add activities or tasks to a developers project) to find ways to

reduce costs (e.g., see page 486, "Tracking Actual Performance and Costs") during development

of software.

In regard to claim **22**, **Project** discloses the limitations as addressed in regard to claim **1**

above. But, **Project** does not expressly disclose "*…a functional implementation stage to a

complete integrated program product…*": However, **Song** discloses:

- "*A computer controlled display system for tracking the building of a program
product from a functional implementation stage to a complete integrated
program product…*" (E.g., see Figure 3 & Column 1, lines 37-41), wherein a
display which guides tracking of software development documents or
products having a plurality of developmental lines is disclosed. Furthermore,
Figure 3 illustrates the status of Implementation and Integration phases.

As per claims **8-13** and **25**, this is a method version of the claimed system discussed

above, in claims **1-6** and **22**, wherein all claimed limitations have also been addressed and/or

cited as set forth above. For example, see **Song** (Column 7, lines 31-33), wherein a method of

the above system is disclosed.

In regard to claim **23**, the rejections of base claim **22** are incorporated. But **Project** does

not expressly disclose "*related to the compatibility functions of said checkpoint line*". However,

it would have been obvious to one of ordinary skill in the art, at the time the invention was made,

to include attributes that are related to the compatibility functions of said checkpoint line. The

motivation to do so was suggested by **Song** (E.g. see, Figure 3 & Column 1, lines 37-45),

wherein **Song** discloses "*the present invention is a mechanism that integrates software*

engineering and system components to guide the browsing/tracking of software development

documents (e.g.,…testing) …this capability is useful…for developing and validating safety-

critical software systems". It would have been obvious, to one of ordinary skill, at the time the

invention was made, to include compatibility functions in the testing. Furthermore, **Song**

discloses, "testing" in Figure 3. Therefore, it would have been obvious to include attributes

"*related to the compatibility functions of said checkpoint line*. See claim **3** for the remaining

limitations.

In regard to claim **24**, see the rejections of base claim **22** and **3**.

As per claims **26** and **27**, this is a method version of the claimed system discussed above,

in claims **6** and **23**, wherein all claimed limitations have also been addressed and/or cited as set

forth above. For example, see **Song** (Column 7, lines 31-33), wherein a method of the above

system is disclosed.

As per claims **32-37** and **39-41**, this is a computer program version of the claimed system

discussed above, in claims **1-6** and **22-24**, wherein all claimed limitations have also been

addressed and/or cited as set forth above. For example, see **Song** (Figure 4 & Column 5, lines

51-52), wherein loading the project file into program memory for use is disclosed.

9.2   Claims **7, 14, 31,** and **38** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Project in view of **Song** and further in view of Hopwood et al., US 6,223,343 B1 (hereinafter

Hopwood).

In regard to claim **7**, the rejections of base claim **2** are incorporated. But **Project** does

not expressly disclose, "*said means for tracking are remote from said means for displaying*".

However, **Hopwood** discloses:

- "*…means for storing, in association with said means for displaying, the data
   tracked by said means for tracking; and means for communicating the data
   tracked to said means for storing.*" (E.g., see Figure 6 (element 100, 106) &
   Column 15, lines 42-46), wherein the document repository (store) stores the
   data tracked in association with displaying, wherein the data is retrieved from
   the document repository.

- "*…said means for tracking are remote from said means for displaying...*"
   (E.g., see Figure 6 & Column 15, lines 22-31), wherein the RMS (means for
   tracking) is remote from the means for displaying.

Project, Song and **Hopwood** are analogous art because they are both concerned with the

same field of endeavor, namely, managing/tracking the development of a software product.

Therefore, at the time the invention was made, it would have been obvious to a person of

ordinary skill in the art to combine **Hopwoods'** remote means for tracking with **Projects'**

software tracking system. The motivation was provided by **Song** in developing a tracking

mechanism "for any organization that produces safety-critical software system". Therefore, it

would be obvious, to one of ordinary skill in the art, to access the system remotely as many

organizations have developers and managers in remote locations.   Thus it would have been

obvious to combine **Hopwoods'** remote means for tracking with **Songs'** software tracking

system.

As per claim **14**, this is a method version of the claimed system discussed above, in claim

7, wherein all claimed limitations have also been addressed and/or cited as set forth above. For

example, see **Song** (Column 7, lines 31-33), wherein a method of the above system is disclosed.

As per claim **38**, this is a computer program version of the claimed system discussed

above, in claim **7**, wherein all claimed limitations have also been addressed and/or cited as set

forth above. For example, see Project (Figure 4 & Column 5, lines 51-52), wherein loading the

project file into program memory for use is disclosed.

As per claim **31**, this is a method version of the claimed method discussed above, in

claims **8-14**, wherein all claimed limitations have also been addressed and/or cited as set forth

above. For example, see **Song** (Column 7, lines 31-33), wherein a method of the above system is

disclosed.

(10) Response to Argument

Appellants' arguments are reproduced nearly verbatim from the reply filed July 28, 2007

(Remarks, July 28, 2007, pp. 11-17), and have already been addressed in the Final Rejection

(Final Rejection at 2-4). Thus, the response below is largely repeated from the Final Rejection.

A.   The rejection of claims 1-6, 8-13, 22-27, 32-37, and 39-41 under 35 U.S.C. § 103(a)

Regarding appellants' allegation that the volume of pages in the *Project* reference

somehow suggests that the examiner must have relied on impermissible hindsight in rejecting the

claims (Brief 18-19), the examiner again submits that everything disclosed in the *Project*

reference pertains to features found in a single software product, namely the Microsoft® Project

98 software product. Thus, the elements of the *Project* reference relied upon were <u>not</u> combined

based on applicant's own teachings through impermissible hindsight as applicant alleges (*Id.*) but

were instead already combined (by Microsoft Corporation) prior to applicant's filing date. As

noted in the Final Rejection, appellants' admission that, "there are probably enough tools and

routines disclosed in the cited over 600 page Project text through the use of which the system of

the invention could be built," (*Id.*) is itself an apparent concession that the claimed invention

would have been obvious in view of the Microsoft Project 98 software product described in the

Project reference.

    Project discloses entering and displaying milestones (e.g., in a Gantt chart (see, e.g., page

661, "The Gantt Chart" & page 662, Figure 20.2 & page 140, "Entering Milestones" & page 19,

fifth paragraph)). As noted in the previous Office action, these milestones mark the completion

of particular tasks included in a project and thus, serve a checkpoints in developmental lines,

wherein milestones, or interim goals, which mark the completion of a particular tasks included in

a project. Milestones serve as check points by which a project can be gauged. The Gantt chart is

a means to track the project, including its individual tasks.

    The additional cited teachings of *Project* (pp. 125-126) show that it has been known to

break up large projects into separate phases of functional groups, which form tasks that are

individually managed as part of overall project management (the Work Breakdown Structure

traditionally used by project managers). These separate tasks and associated resources may be

considered developmental lines. On p. 565, *Project* further discloses managing projects

involving many planners and many resources who do the work of the project.

  Project further describes simultaneous display of multiple tasks in the Gantt chart and

displaying multiple milestones (see, e.g., p. 140 (describing display of milestones) and pp. 661-

662 (the Gantt chart as a display of multiple tasks)).

  Project further describes several ways to simultaneously view and edit task information.

For example, p. 154 shows a Task Details view in a split-window display along with the Gantt

chart. Further, on p. 156, *Project* discloses that changes made in one view are automatically

reflected in all other views (explicitly referencing both the Gantt Chart view and the Task Entry

view). The individual tasks displayed in the multiple views of *Project* may be assigned to

selected resources, and the resource assignment may be later changed, which further affects the

display of task information (as described, for example, on p. 312 in the description of the Task

Usage view), thus switching actions from one developmental line to another (reassigning

resources) in the simultaneously display of a plurality of developmental lines.

  The cited teachings of SONG et al. are largely cumulative to the evidence contained in

Project. SONG et al. is cited as additionally teaching defining checkpoints in a system

comprising multiple developmental lines as illustrated, for example, in Figs. 2 and 3. Further,

SONG et al. teaches the simultaneous display of multiple developmental lines. See, e.g., col. 4,

lines 56-65 (describing how <u>each</u> column in the progress status panel of Figure 3 shows the

status of the document within <u>one</u> development phase).

B.   The rejection of claims 7, 14, 31, and 38 under 35 U.S.C. § 103(a) (Brief at 23).

       Project further describes Internet features which enable project managers to manage a

project with resources located almost anywhere in the world (*Project* p. 565), thus providing

remote tracking and communication to the project manager (and the Project display).

       Further, *Hopwood* is cited as additionally teaching a data tracking and management

system in which a centralized repository (RMS repository 100) is used to store tracked data, and

developers and other users display and manipulate the data through remote workstations (e.g.,

Fig. 6; col. 15, lines 20-46). In simplest terms, if the system of *Hopwood* as characterized by

appellants (Brief at 23) did not communicate the tracked data to the display system and store it

there (*e.g.*, in RAM or in a buffer), it would be impossible to subsequently display it.

C.   The rejection of claims 32-41 under 35 U.S.C. § 112, second paragraph.

       As noted above in section 6, the rejection of claims 32-41 under 35 U.S.C. § 112, second

paragraph, has been withdrawn.

       (11) Related Proceeding(s) Appendix

       No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Eric B. Kiss/
Eric B. Kiss
Primary Examiner, Art Unit 2192

Conferees:

/Tuan Q. Dam/
Tuan Q. Dam
Supervisory Patent Examiner, Art Unit 2192

/Lewis A. Bullock, Jr./
Lewis A. Bullock, Jr.
Supervisory Patent Examiner, Art Unit 2193